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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2013-803**

12 **LISA GONZALES HOWELL**
13 **32800 Brampton Court**
Menifee, CA 92584

A C C U S A T I O N

14 **Registered Nurse License No. 579167**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On March 28, 2001, the Board of Registered Nursing issued Registered Nurse
22 License Number 579167 to Lisa Gonzales Howell (Respondent). The Registered Nurse License
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 August 31, 2014, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480;

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 492 of the Code states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a licensee for professional misconduct notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

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1 9. Section 2761 of the Code states:

2 The board may take disciplinary action against a certified or licensed
3 nurse or deny an application for a certificate or license for any of the following:

4 (a) Unprofessional conduct, which includes, but is not limited to, the
5 following:

6

7 10. Section 2762 of the Code states:

8 In addition to other acts constituting unprofessional conduct within the
9 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct
10 for a person licensed under this chapter to do any of the following:

11 (a) Obtain or possess in violation of law, or prescribe, or except as
12 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
13 himself or herself, or furnish or administer to another, any controlled substance as
14 defined in Division 10 (commencing with Section 11000) of the Health and
15 Safety Code or any dangerous drug or dangerous device as defined in Section
16 4022.

17

18 **COST RECOVERY**

19 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request
20 the administrative law judge to direct a licentiate found to have committed a violation or
21 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
22 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
23 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
24 may be included in a stipulated settlement.

25 **DRUGS**

26 12. Morphine is a Schedule I controlled substance as designated by Health and Safety
27 Code section 11054, subdivision (c) and is a dangerous drug under Code section 4022.

28 13. Lorazepam is a Scheduled IV controlled substance as designated by Health and
Safety Code section 11057, subdivision (d)(16) and is a dangerous drug under Code section
4022.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 14. Respondent has subjected her registered nurse license to disciplinary action under
4 Code section 2761, subdivision (a), for unprofessional conduct. The circumstances are as
5 follows.

6 a. On or about May 10, 2012, deputies from the Perris Enforcement Team of
7 the Riverside County Sheriff's Department served a search warrant at Respondent's residence in
8 Menifee, California. During the search, Respondent admitted to bringing home vials of liquid
9 lorazepam and morphine found by officers in her nightstand during the search. Respondent's
10 daughter, who was also living at Respondent's house, was found to be under influence of a
11 controlled substance and in possession of heroin and drug paraphernalia. Another occupant of
12 Respondent's residence, who was present during the search, was also found to be under the
13 influence of a controlled substance and in possession of heroin for sale and drug paraphernalia.
14 Another guest in Respondent's home was also found to be under influence of a controlled
15 substance and in possession of heroin and drug paraphernalia. Drug paraphernalia was found in
16 another occupant's room. A stolen vehicle was found in the garage. During an interview,
17 Respondent admitted to being aware that her husband had been using heroin for over a year, two
18 to three times a week; her daughter was also a heroin user, her two other co-residents used heroin
19 as well, and that she was not allowed to possess lorazepam or morphine without a prescription.

20 b. On August 3, 2012, in a criminal proceeding filed against Respondent and
21 other inhabitants of her home in Riverside County Superior Court, Riverside Hall of Justice, case
22 number RIF1202953, Respondent pled guilty to violating Health and Safety Code (HSC) section
23 11350, subdivision (a), possession of lorazepam, and HSC section 11377, subdivision (a),
24 possession of morphine, felonies. Charges for violation of HSC section 11366, opening and
25 maintaining a place for the purpose of selling, giving away, and using controlled substances, a
26 felony, and HSC section 11364.1, possession of a device, contrivance, instrument, and
27 paraphernalia used for unlawfully injecting and smoking a controlled substance, a misdemeanor,
28 were dismissed pursuant to a plea bargain.

1 c. As a result of the plea, on August 3, 2012, judgment was deferred pursuant
2 to Penal Code (PC) section 1000 for 18 months, subject to compliance with enrollment and
3 successful completion of PC 1000 Drug Diversion Program and payment of fees. Respondent is
4 scheduled for a hearing for dismissal of the case on February 3, 2014.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Unauthorized Possession of Controlled Substances)**

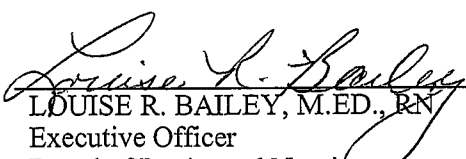
7 15. Respondent has subjected her registered nurse license to disciplinary action under
8 Code section 2762, subdivision (a), in that on or about May 10, 2012, she possessed the
9 controlled substances lorazepam and morphine in violation of the law. The circumstances are as
10 detailed in paragraph 14, above, which are incorporated herein by reference.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 14 1. Revoking or suspending Registered Nurse License Number 579167, issued to
15 Lisa Gonzales Howell;
- 16 2. Ordering Lisa Gonzales Howell to pay the Board of Registered Nursing the
17 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.
- 20
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22

23 DATED: March 19, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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